

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DWIGHT MARSHON WHITE,

Plaintiff(s),

vs.

CAROLYN W. COLVIN,
 Acting Commissioner of Social Security,

Defendant(s).

Case No. 2:15-cv-01587-JCM-NJK

ORDER

Pending before the Court is an order for Plaintiff to show cause. Docket No. 31. Plaintiff has filed a response. Docket No. 32. In short, Plaintiff sought *in forma pauperis* status in a prior case attempting to appeal the adverse social security determination that is also at issue in this case, that request was denied, and judgment was entered against Plaintiff when he failed to pay the filing fee. *See id.* (discussing proceedings in *White v. U.S. Government*, Case No. 2:15-cv-00194-APG-CWH (D. Nev.)). When Plaintiff's prior case was dismissed and judgment was entered, it became a settled fact that he could not proceed in his social security appeal *in forma pauperis*. *See, e.g., Taylor v. Sturgell*, 553 U.S. 880, 892 (2008) (discussing doctrine of issue preclusion).¹ Plaintiff could not relitigate that issue in this case through the filing of a new *in forma pauperis* application, and the application that he filed in this case should have

¹ The fact that Judge Gordon dismissed the previous case without prejudice does not render the doctrine of issue preclusion inapplicable: "It matters not that the prior action resulted in a dismissal without prejudice, so long as the determination being accorded preclusive effect was essential to the dismissal." *Deutsch v. Flannery*, 823 F.2d 1361, 1364 (9th Cir. 1987).

1 been denied as moot. Accordingly, the Court **VACATES** its order granting Plaintiff leave to proceed *in*
2 *forma pauperis* (Docket No. 2) and **REVOKES** Plaintiff's *in forma pauperis* status. *Cf. Amarel v. Connell*,
3 102 F.3d 1494, 1515 (9th Cir. 1996) (courts may reconsider interlocutory orders). The Court also finds that
4 Plaintiff must pay the full filing fee (\$400) in addition to the expenses incurred in effectuating process on
5 his behalf, which the Court estimates to be \$16. *See, e.g., Russell v. Richardson*, 2016 WL 4368192 (M.D.
6 Tenn. June 8, 2016), *adopted* 2016 WL 4264862 (M.D. Tenn. Aug. 12, 2016).

7 Accordingly, no later than October 6, 2016, Plaintiff must pay the filing fee and the fee for service
8 of process in the total amount of \$416. **Failure to comply with this order will result in a**
9 **recommendation of dismissal.**

10 IT IS SO ORDERED.

11 Dated: September 15, 2016

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14 NANCY J. KOPPE
15 UNITED STATES MAGISTRATE JUDGE
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